

Resolved that Jamie Lynch is authorized to testify and to produce documents in *Richard Bowen v. Department of the Navy*, except concerning matters for which a privilege should be asserted.

MEASURE READ THE FIRST TIME—H.R. 1256

Mr. REID. Mr. President, it is my understanding that H.R. 1256 has been received from the House and is now at the desk.

The PRESIDING OFFICER. The Leader is correct.

Mr. REID. I would ask for its first reading.

The PRESIDING OFFICER. The clerk will report the bill by title for the first time.

The legislative clerk read as follows:

A bill (H.R. 1256) to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products, to amend title 5, United States Code, to make certain modifications in the Thrift Savings Plan, the Civil Service Retirement System, and the Federal Employees' Retirement System, and for other purposes.

Mr. REID. Mr. President, I now ask for its second reading but object to my own request.

The PRESIDING OFFICER. Objection is heard. The bill will receive its second reading on the next legislative day.

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NO. 111-2

Mr. REID. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the following treaty transmitted to the Senate on April 2, 2009, by the President of the United States:

Annex VI to the Protocol on Environmental Protection to the Antarctic Treaty (Treaty Document No. 111-2).

I further ask unanimous consent that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith Annex VI on Liability Arising From Environmental Emergencies to the Protocol on Environmental Protection to the Antarctic Treaty (Annex VI), adopted on June 14, 2005, at the twenty-eighth Antarctic Treaty Consultative Meeting held in Stockholm, Sweden. I also transmit for the information of the Senate the report of the Department of State, which includes an Overview of Annex VI.

The Protocol on Environmental Protection to the Antarctic Treaty (the

"Protocol") together with its Annexes I-IV, adopted at Madrid on October 4, 1991, and Annex V to the Protocol, adopted at Bonn on October 17, 1991, received the advice and consent of the Senate to ratification on October 7, 1992, and entered into force for the United States on January 14, 1998, and May 24, 2002, respectively.

In Article 16 of the Protocol, the Parties undertook to elaborate, in one or more Annexes, rules and procedures relating to liability for damage arising from activities taking place in the Antarctic Treaty area and covered by the Protocol. Annex VI sets forth rules and procedures relating to liability arising from the failure of operators in the Antarctic to respond to environmental emergencies.

I believe Annex VI to be fully in the U.S. interest. Its provisions advance the U.S. goals of protecting the environment of Antarctica, establishing incentives for Antarctic operators to act responsibly, and providing for the reimbursement of costs incurred by the United States Government when it responds to environmental emergencies caused by others.

As the report of the Department of State explains, Annex VI will require implementing legislation, which will be submitted separately to the Congress for its consideration.

I recommend that the Senate give early and favorable consideration to Annex VI and give its advice and consent to ratification.

BARACK OBAMA

THE WHITE HOUSE, April 2, 2009.

APPOINTMENT AUTHORITY

Mr. REID. Mr. President, I ask unanimous consent that notwithstanding the recess or adjournment of the Senate, the President of the Senate, the President of the Senate pro tempore, and the majority and minority leaders be authorized to make appointments to commissions, boards, conferences or interparliamentary conferences authorized by law, by concurrent action of the two Houses or by order of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY TO FILE

Mr. REID. Mr. President, I ask unanimous consent that notwithstanding an adjournment of the Senate, the Senate committees may file reported legislation and executive calendar business on Thursday, April 16, from 10 a.m. to 12 noon.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROVIDING FOR A CONDITIONAL ADJOURNMENT OF THE HOUSE OF REPRESENTATIVES AND A CONDITIONAL RECESS OR ADJOURNMENT OF THE SENATE

Mr. REID. I ask unanimous consent the Senate proceed to H. Con. Res. 93.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 93) providing for conditional adjournment of the House of Representatives and conditional recess or adjournment of the Senate.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. REID. I ask unanimous consent the concurrent resolution be agreed to and the motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 93) was agreed to, as follows:

H. CON. RES. 93

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on any legislative day from Thursday, April 2, 2009, through Saturday, April 4, 2009, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2 p.m. on Tuesday, April 21, 2009, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns on any day from Thursday, April 2, 2009, through Sunday, April 5, 2009, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until noon on Monday, April 20, 2009, or such other time on that day as may be specified in the motion to recess or adjourn, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, or their respective designees, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble at such place and time as they may designate if, in their opinion, the public interest shall warrant it.

FRAUD ENFORCEMENT AND RECOVERY ACT OF 2009—MOTION TO PROCEED

CLOTURE MOTION

Mr. REID. Mr. President, I now move to proceed to Calendar No. 28, S. 386. With it, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to Calendar No. 28, S. 386, the Fraud Enforcement and Recovery Act of 2009.

Harry Reid, Patrick J. Leahy, Edward E. Kaufman, Jeff Bingaman, John D. Rockefeller, IV, Jon Tester, Bernard Sanders, Charles E. Schumer, Jack Reed, Sheldon Whitehouse, Benjamin L. Cardin, Ron Wyden, Dianne Feinstein, Patty Murray, John F. Kerry, Amy Klobuchar, Debbie Stabenow.

Mr. REID. I ask unanimous consent the mandatory quorum be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR MONDAY, APRIL 20, 2009

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 2 p.m., Monday, April 20, under the provisions of H. Con. Res. 93; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate resume consideration of the motion to proceed to Calendar No. 28, S. 386, the Fraud Enforcement and Recovery Act of 2009.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. REID. Mr. President, under the previous order, there will be a series of up to four rollcall votes beginning at 5:30 p.m. on Monday.

ADJOURNMENT UNTIL MONDAY, APRIL 20, 2009, AT 2 P.M.

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it adjourn under the previous order.

There being no objection, the Senate, at 12:42 a.m., adjourned until Monday, April 20, 2009, at 2 p.m.

NOMINATIONS

Executive nominations received by the Senate:

THE JUDICIARY

ANDRE M. DAVIS, OF MARYLAND, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FOURTH CIRCUIT, VICE FRANCIS D. MURNAGHAN, JR., DECEASED.

GERARD E. LYNCH, OF NEW YORK, TO BE UNITED STATES CIRCUIT JUDGE FOR THE SECOND CIRCUIT, VICE CHESTER J. STRAUB, RETIRED.

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral (lower half)

CAPT. RON J. MACLAREN

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral (lower half)

CAPT. ROBIN L. GRAF

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral (lower half)

CAPT. DAVID G. RUSSELL

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral (lower half)

CAPTAIN DOUGLAS J. ASBJORNSEN
CAPTAIN CHARLES K. CARODINE
CAPTAIN ANATOLIO B. CRUZ III
CAPTAIN JOHN E. JOLLIFFE
CAPTAIN ROBERT J. KAMENSKY

DEPARTMENT OF AGRICULTURE

KRYSTA HARDEN, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF AGRICULTURE, VICE LINDA AVERY STRACHAN, RESIGNED.

DEPARTMENT OF DEFENSE

JO-ELLEN DARCY, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF THE ARMY, VICE JOHN PAUL WOODLEY, JR.

DEPARTMENT OF ENERGY

SCOTT BLAKE HARRIS, OF VIRGINIA, TO BE GENERAL COUNSEL OF THE DEPARTMENT OF ENERGY, VICE DAVID R. HILL, RESIGNED.

DEPARTMENT OF HOMELAND SECURITY

TIMOTHY W. MANNING, OF NEW MEXICO, TO BE DEPUTY ADMINISTRATOR FOR NATIONAL PREPAREDNESS, FEDERAL EMERGENCY MANAGEMENT AGENCY, DEPARTMENT OF HOMELAND SECURITY, VICE DENNIS R. SCHRADER.

DEPARTMENT OF VETERANS AFFAIRS

JOHN U. SEPULVEDA, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF VETERANS AFFAIRS (HUMAN RESOURCES), VICE MICHAEL W. HAGER.

FOREIGN SERVICE

THE FOLLOWING-NAMED CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE DEPARTMENT OF COMMERCE FOR PROMOTION WITHIN AND INTO THE SENIOR FOREIGN SERVICE TO THE CLASSES INDICATED:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR:

GREGORY D. LOOSE, OF VIRGINIA
DOROTHY L. LUTTER, OF THE DISTRICT OF COLUMBIA
WILLIAM M. ZARIT, OF FLORIDA

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR:

BRIAN C. BRISSON, OF FLORIDA
MICHAEL L. MCGEE, OF ALABAMA
DONALD G. NAY, OF FLORIDA
GREGORY M. WONG, OF HAWAII

THE FOLLOWING-NAMED PERSONS OF THE AGENCIES INDICATED FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF THE CLASSES STATED.

FOR APPOINTMENT AS FOREIGN SERVICE OFFICER OF CLASS TWO, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

AGENCY FOR INTERNATIONAL DEVELOPMENT

LASZLO F. SAGI, OF VIRGINIA
DAVID A. THOMANEK, OF VIRGINIA

FOR APPOINTMENT AS FOREIGN SERVICE OFFICER OF CLASS THREE, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

AGENCY FOR INTERNATIONAL DEVELOPMENT

STEVEN BRADLEY BENNETT, JR., OF VIRGINIA
ANDY D. NGUYEN, OF VIRGINIA
FATMA A. ROSE, OF ARIZONA

DEPARTMENT OF COMMERCE

JOHN F. CORONADO, OF CALIFORNIA
JAMES S. CRAMER, OF THE DISTRICT OF COLUMBIA
ROBERT W. DUNN, OF VIRGINIA
BRENT E. OMDAHL, OF TEXAS

DEPARTMENT OF STATE

ALFREDO DAVID BARELA, OF TEXAS
JEHAN SADIA JONES, OF THE DISTRICT OF COLUMBIA
CATHERINE HENDERSON SCHWEITZER, OF VIRGINIA

FOR APPOINTMENT AS FOREIGN SERVICE OFFICER OF CLASS FOUR, CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF COMMERCE

GREGORY HARRIS, OF WASHINGTON
AARON M. HELD, OF CALIFORNIA
FRANKLIN D. JOSEPH, OF THE DISTRICT OF COLUMBIA
DAO M. LE, OF CALIFORNIA
DINAH M. MCDUGALL, OF TEXAS
MARK C. O'GRADY, OF MARYLAND
JANEE PIERRE-LOUIS, OF FLORIDA
ELIZABETH M. SHIEH, OF NEW YORK
WILLIAM P. THORN, JR., OF PENNSYLVANIA

DEPARTMENT OF STATE

AMY MARIE MOSER, OF MISSOURI
SADIE MARIE OKOKO, OF THE DISTRICT OF COLUMBIA

THE FOLLOWING-NAMED MEMBERS OF THE FOREIGN SERVICE TO BE CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF COMMERCE

BRIAN W. CARR, OF VIRGINIA
LAWRENCE D. CORNMAN, OF MARYLAND

DEPARTMENT OF STATE

KATHRINE L. ALDERMAN, OF VIRGINIA
BOOYEON LEE ALLEN, OF CALIFORNIA
CLAY C. ALLEN, OF MASSACHUSETTS
SHANE MICHAEL ANDERSEN, OF VIRGINIA
BEATA ANGELICA, OF VIRGINIA
LA JUNE L. BARNES, OF NEW YORK
NICHOLAS G. BARNETT, OF NEW YORK
CHRISTINA I.M. BISHOP, OF VIRGINIA
JOSEPH E. BURZYNSKI, OF THE DISTRICT OF COLUMBIA
DANIEL J. CARL, OF COLORADO
ALBERT RAY CEA, HENRIQUEZ, OF TEXAS
FREDERICK CHARLES, OF VIRGINIA
JOHN PAUL CHARLES, OF WASHINGTON
DONALD K. CODDING, OF OKLAHOMA
SYDNEY A. CODDING, OF OKLAHOMA
ROBERT PATRICK CONTRERAS, OF MISSOURI
CRAIGORY D. CRANK, OF MARYLAND
ERIC T. CUYLER, OF NEBRASKA
PHILLIP NELSON DE ASSIS, OF THE DISTRICT OF COLUMBIA

BROOKE HEILNER DEAN, OF MARYLAND
ANTHONY J. DIAZ, OF KENTUCKY
RYAN T. DRISCOLL, OF VIRGINIA
EDMUND FLEETWOOD DUNSTAN III, OF MARYLAND
KARYN MALLA CHOQUETTE ELIOT, OF VIRGINIA
ANDREW L. ELLIS, OF VIRGINIA
TIMOTHY F. FARRELL, OF VIRGINIA
MARISA FERGUSON, OF VIRGINIA
JOSE M. GARZA, JR., OF VIRGINIA
NOAH J. GEESAMAN, OF VIRGINIA
JENNIFER H. GIBBS, OF VIRGINIA
KIMBERLY K. GUSTI, OF OREGON
PALOMA H. GONZALEZ, OF CALIFORNIA
JACOB DANIEL GRANNELL, OF THE DISTRICT OF COLUMBIA

KERRY J. GROOMER, OF MARYLAND
RYAN N. GURLINGER, OF VIRGINIA
FRISCILLA GUZMAN, OF TEXAS
CHANSOINETTE HALL, OF PENNSYLVANIA
GARTH HALL, OF THE DISTRICT OF COLUMBIA
LAURA J. HAMMOND, OF MINNESOTA
SEAN M. HANIFEN, OF VIRGINIA
NICHOLAS HARRIS, OF VIRGINIA
VIRGINIA HARRIS, OF NEW YORK
APRIL M. HANNE, OF OHIO
CHERYL A. HIPPE, OF CALIFORNIA
RYNA HOK, OF VIRGINIA
KERRY F.A. HYRE, OF NEW YORK
TIFFANY L. JACKSON, OF FLORIDA
CHRISTOPHER C. JENSEN, OF VIRGINIA
VISHAL JINDAL, OF VIRGINIA
KENNETH J. KANN, OF MARYLAND
SONIA JUNG KIM, OF GEORGIA
RICHARD CHARLES KOLKER, OF VIRGINIA
STEPHAN G. LANGLEY, OF WASHINGTON
JOHN B. LAVIN, OF MARYLAND
MICHAEL E. LEE, OF VIRGINIA
THOMAS J. LEIBY, OF PENNSYLVANIA
WENDY ANN LIGON, OF VIRGINIA
BRIDGET MARY LINES, OF TEXAS
LOREN C. LOCKE, OF GEORGIA
RYAN J. LONG, OF WASHINGTON
JAMES MICHAEL LOWELL, OF TENNESSEE
MUNIR DAWAN MADYUN, OF GEORGIA
SARA V. MARTI, OF FLORIDA
ANNA ARAMBULO MARTZ, OF TEXAS
JOEL SUNIL MATHEW, OF TEXAS
WESLEY S. MATHEWS, OF TEXAS
TRISHITA MAULA, OF NEW YORK
JAMES PATRICK MCCORMICK, OF OREGON
CHRISTOPHER H. MCHONE, OF TEXAS
ROLAND DAVID MCKAY, OF MICHIGAN
MARY KATHLEEN MCKNIGHT, OF TENNESSEE
DOERING S. MEYER, OF MINNESOTA
MORGAN DANIEL MILES, OF WASHINGTON
AARON TYRELL MITCHELL, OF MARYLAND
DUC MORROW, OF ILLINOIS
KATHRINE M. MORTENSEN, OF NEW YORK
STEVEN MARK MOUTON, OF VIRGINIA
NATALYA A. NIKIFOROVA-SMITH, OF FLORIDA
CAROLINE CASEY NOHR, OF CALIFORNIA
FREDERICK NICHOLAS NOYES, OF TEXAS
ILENA C. PATTI, OF VIRGINIA
KARLEE MARIE PAYNE, OF VIRGINIA
CHRIS F. PIERSON, OF CONNECTICUT
SUSAN AQUINTANA, OF TEXAS
ERIN ALEXIS RATTATZ, OF CALIFORNIA
SUNIL KUMAR RAVI, OF ARIZONA
STEPHANIE LAUREN REED, OF VIRGINIA
MARK V. REEDY, OF GEORGIA
NICHOLAS B. REID, OF FLORIDA
REGINE RENÉ, OF LOUISIANA
ANGELICA RODAS-HUGHES, OF VIRGINIA
THOMAS S. ROOKER, OF VIRGINIA
ALISON E. ROWLES, OF MARYLAND
CHUNNONG SAEGER, OF MARYLAND
MUMUN FATIMA SAIFEE, OF TEXAS
FELIX J. SALAZAR, OF MARYLAND
JANICE T. SCHILL, OF CALIFORNIA
PHILIP SCOT SCHWADA, OF VIRGINIA
BEHRANG FARIAN SERAJ, OF CALIFORNIA
ANDREW MICHAEL SHERNUK, OF VIRGINIA
ARATI SHEROFF, OF ILLINOIS
ALEXANDREA R. SHYBUT, OF VIRGINIA
CLAIRE ELIZABETH SMOLIK, OF CALIFORNIA
LURENCE J. SOCHA, OF ILLINOIS
NITZA SOLA-ROTER, OF THE DISTRICT OF COLUMBIA
CORY RAJA STELLING, OF VIRGINIA
MASAMI TANAKA, OF ILLINOIS
MEGAN J. TETRICK, OF INDIANA